

DEPARTMENT GENERAL ORDER 07-32

OFFICE of the CHIEF OF POLICE
REPLACES: General Order 05-03
SOP: 300.57.00

DATE: January 26, 2007

WORKPLACE HARASSMENT

I. PURPOSE.

Department employees, irrespective of gender, have a right to maintain their personal dignity and work in an environment free from sexual or other types of workplace harassment. The harassment of employees or applicants for employment in any form is unacceptable and shall not be tolerated.

II. DEFINITIONS.

Harassment - To persistently torment, bother, or trouble an individual with the intent to belittle, intimidate, or anger for personal or professional reasons.

Sexual Harassment - Unwelcome sexual advances, requests for sexual favors, or other verbal or physical acts of a sexual or sex-based nature where: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) an employment decision based on an individual's acceptance or rejection of such conduct; or (3) such conduct interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment.

III. GENERAL HARASSMENT.

To foster a workplace environment free of hostility and potential conflict, employees shall refrain from making offensive or derogatory comments based on race, color, sex, sexual orientation, religion, or national origin either directly or indirectly to another person. In similar fashion, sworn and non-sworn employees shall avoid remarks intended to ridicule, mock, or belittle another member of the department.

IV. SEXUAL HARASSMENT.

The provisions of the sexual harassment law shall apply equally to all employees (men and women) irrespective of their position or title, and shall also include vendors, independent contractors, and/or others with whom the department does business to obtain services or supplies. Sexual harassment can generally be placed into one of two broad categories: quid pro quo and hostile work environment.

Quid pro quo normally means “something for something” and within the context of the sexual harassment law routinely involves supervisors or managers who employ threats (Ex: termination, transfer, blocking promotions, poor evaluations, etc.) and/or rewards (Ex: pay raise, promotion, job placement, etc.) to force or solicit an employee to submit to unwelcome sexual advances.

A hostile work environment is inherently more subjective and difficult to define in terms of sexual harassment. Factors could include (1) unwanted physical contact such as touching, holding, grabbing, hugging, kissing, accidental collisions, etc.; (2) verbal behavior such as offensive jokes and language, repeated flirtation, advances, propositions or requests to date, comments, or suggestions of a sexual nature; and (3) non-verbal behavior such as staring at a person’s body, leaning over someone at a desk, offensive gestures or motions, lewd letters, cartoons, pictures, and/or other sexually oriented behavior.

A single isolated incident with unwanted sexual overtones does not generally constitute sexual harassment. Rather a consistent and repetitious pattern of behavior must exist that is sufficient to alter the working conditions of employment. It is important to remember that the perceptions of the victim – not the intent of the person accused – is the critical factor in determining if a sexual harassment violation has taken place. However, to obtain a modicum of balance, a reasonable victim standard will apply. This requires that extra-sensitive, scrupulous individuals, who may find certain behaviors offensive to their own tastes, must abide by the established standard of what a reasonable individual would find offensive. As such, extra-sensitive, or overly moral individuals need not be catered to by management or their peers.

It should be noted however, that contingent upon the severity of the action, a single incident, such as the “unwelcome touching of an employee’s intimate body areas” serves as an exception to this standard, and shall be deemed to be sufficiently offensive as to automatically constitute Hostile Sexual Harassment.

V. COMPLAINT PROCEDURE.

Complaints in regard to sexual or other types of harassment may be filed by the victim or a third party. In those instances where an employee feels that he/she has been victimized in such a manner, a formal grievance complaint should be registered with the employee’s immediate supervisor in accordance with established procedure. This should be accomplished within three working days following the last recorded incident of harassment. The supervisor will record the alleged facts of the incident and, in conjunction with related documents and/or a recommendation, forward the complaint up the appropriate chain-of-command. All harassment complaints shall be promptly reported to the City Manager’s office. The Chief of Police operating in conjunction with the Deputy City Manager will direct an investigation into the harassment complaint. This may entail assigning an internal investigator (independent from the involved parties) or the retention of an outside firm to review the matter.

In those instances where a complaint may be directed against an employee’s immediate supervisor, the employee should present their case to the next highest officer in the chain of command. Should an employee feel uncomfortable, or fear retaliation, in dealing with a mid-level commander or supervisor, the employee may file a complaint directly with the appropriate bureau commander, the Chief of Police, or take it directly to the Deputy City Manager or City Manager. The investigative process shall then proceed according to the guidelines listed above.

Irrespective of any action taken by the police department or city, the employee may also file a complaint or grievance with the appropriate federal agency.

Confidentiality shall be maintained to the extent permitted by investigative requirements.

Employees who bring harassment charges or assist in investigating charges will not be adversely affected in terms and conditions of employment, nor discriminated against or discharged, as long as the complaint was made in good faith.

VI. EMPLOYEE'S RESPONSIBILITY.

When unwanted attention or behavior, either of a sexual nature or otherwise, may be directed toward a departmental employee, certain responsibilities shall accrue to the employee to whom such behavior is directed.

- A. The employee should confront the problem and calmly and clearly state his/her personal objections to the behavior and ask that same stop.
- B. Record the times, places, and specifics of each incident, including the identities of other employees who may have witnessed the event.
- C. Report harassment via the normal chain-of-command, unless justification exists to do otherwise.
- D. Cooperate fully with the investigators reviewing the incident(s).

VII. SUPERVISORY RESPONSIBILITY.

Each supervisor shall assume responsibility for preventing acts of harassment by:

- A. Ensuring their subordinates are aware of department/City policy governing harassment.
- B. Monitoring their squads, divisions, or bureaus for signs of harassment and taking appropriate proactive action to forestall same.
- C. Acting on harassment complaints in a timely and professional manner, regardless of whether the specific acts were sanctioned or specifically forbidden.
- D. Limiting the degree of contact between employees who are involved or implicated in a harassment complaint, pending the outcome of an investigation.

VIII. INTERNAL INVESTIGATION.

The Chief of Police shall notify the Deputy City Manager and/or City Manager of a harassment complaint as soon as practical. The Chief of Police and Deputy City Manager will then coordinate their efforts relative to conducting an investigation of the harassment complaint. Following this consultation, select commissioned officers may be used to investigate the complaint, or an investigator, independent from the parties involved, may be utilized to investigate the charges. This will entail interviewing all pertinent personnel (including, but not limited to: the victim, alleged perpetrator, witnesses, and co-workers),

with the intent not only to corroborate the incident but also to determine a pattern of conduct. The investigating officer(s) will document their findings and supportive evidence, and forward same in an internal investigations report to the Chief of Police and Deputy City Manager.

Should a harassment complaint be pervasive in scope, in that it would be difficult for the department to investigate itself, then an outside firm or agency may be retained to examine the incident.

The Chief of Police and Deputy City Manager will review the findings of fact, and use the report as a basis for such disciplinary action as may be imposed.

Investigative reports concerning allegations of harassment shall be considered personnel records and will be maintained in a secure location, separate from other reports and administrative documentation.

IX. DISCIPLINARY MEASURES.

If a harassment complaint is found to be based in fact, the perpetrator shall be subject to disciplinary action, up to and including dismissal.

Should a commander, supervisor, or individual in an “acting” capacity refuse to entertain a complaint of sexual or other type harassment; obstruct or intentionally delay an investigation into the harassment; or initiate retaliatory measures against the complainant in violation of the equal employment opportunity laws, such individuals shall also be subject to disciplinary action.

Conversely, false accusations or information in regard to a claim of illegal harassment may result in disciplinary action, up to and including dismissal, being taken against the complainant.

BY ORDER OF:

THOMAS J. BYRNE
Chief of Police

TJB:dld

CALEA Reference 26.1.3

